**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**APPELLATE SIDE CIVIL JURISDICTION**

FIRST APPEAL NO.670 OF 1994

1. The State of Maharashtra.

2. The Land Acquisition Officer, Kolhapur.

..Appellants.

Vs.

Nana Satappa Patil. ..Respondent.

Mr. Bharat Mehta along with Ms. Shilpa Gajare for the Appellants.

**CORAM: R.S. MOHITE, J.**
**DATE : 4th June,2008**

ORAL JUDGMENT:

1. This is a first appeal filed by the appellants impugning the judgment and order passed by the 2nd Additional District Judge, Kolhapur on 26.4.1991 in Land Reference No.69/1984. By the impugned judgment and order the State of Maharashtra has been directed to pay compensation of Rs.88,774/- with interest at the rate of 9% p.a. from the date of possession i.e. upto one year i.e. till 23.11.1983. The opponents were further directed to pay interest at the rate of 15% p.a. from 24.11.1983 till the date of payment. The claimant has been directed to pay additional court fee on the market value of Rs.47,774.00.

2. On perusal of the impugned judgment, it indicates that the market rate in respect of the suit land has

been calculated at the rate of Rs.16,000/- per acre. The acquired lands in question were two lands, the first bearing R.S.No.399/1 admeasuring 1.35 Hectors and the second being R.S.No.265/3 admeasuring 0.02 Hectors., total area under acquisition was thus 1.37 Hectors which was equivalent to 3-Acres 17 Gunthas. By the impugned judgment and order the value of the land at the rate of Rs.16,000/- per acre was calculated at Rs.54,800/-. The Solatium was calculated at Rs.16,400/-. The additional component at the rate of 12% from the date of publication of notification i.e. from 13.7.1978 till the date of taking possession i.e. 24.11.1982 was calculated at Rs.26,304/-. Deduction of Rs.8770/- was made in respect of amount already paid and thus Reference Court arrived at the figure of Rs.88,774/-.

3. On perusal of the impugned judgment and order, it is clear that the reference court rejected the evidence relating to several sale deeds produced by the claimants on the footing that those sale deeds could not be said to be comparable and that the consideration in those sale deeds was higher because villages where sale instances had occurred were nearer to the Highway or were in the villages which were developed. The Judgement and order is clearly based upon one comparable sale proved from the evidence of Kallappa (Exh.28). Kallappa was the witness of the claimant and according to him one Narayan Ramu Thanaba purchased 0.26.3 hectors

land out of R.S.No.440/2 for Rs.10,000/- on 31.12.1979. He testified that the entire agriculture lands of Village Tudaye were of the same quality, having same potentiality and same productive capacity. This was supported by the evidence of all the witnesses of the claimant. The sale of this land was executed on 31.12.1979 i.e. about one year and three months after the notification which was dated 13.7.1978. Accepting this sale deed, the claim of claimant that the lands were being acquired were worth of Rs.50,000/- was rejected and the land was valued at Rs.16,000/- per acre on far with the consideration as mentioned in the aforesaid comparable sale instance.

4. The learned counsel pleaded that this sale instance was wrongly relied upon. It is seen from the record that on behalf of the State that no evidence was led. The solitary comparable sale instance was brought on record on behalf of the claimant. It has come on record that village Tudaye was far away from the National Highway. In fact, the lands which were acquired are larger in area and the sale instance is 26.3 ares. Nothing was brought on record to indicate that any higher consideration was paid to the vendor in the sale instance. In my view therefore, this is the only reliable evidence which can be made basis for calculating the value. It cannot be said that the reasoning for accepting this as a comparable sale

instance in incorrect.

5. In the net result, there is no substance in the first appeal and the appeal stands rejected.

**(R.S. MOHITE, J.)**